

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GARRY ZIGICH, JR.,

Plaintiff,

v.

GARY M. LANIGAN, et al.,

Defendants.

Civil Action No. 17-6105 (MAS)

MEMORANDUM AND ORDER

This matter is before the Court on a civil rights complaint filed by Garry Zigich, Jr. ("Plaintiff") pursuant to 42 U.S.C. § 1983. (Compl., ECF No. 1.) Presently before the Court is Plaintiff's motion to amend. (Mot. to Amend, ECF No. 41.) As Plaintiff correctly surmised, the Federal Rules of Civil Procedure provide him one amendment as a matter of course. *See* Fed. R. Civ. P. 15(a)(1).


In the motion, however, Plaintiff indicates that he is voluntarily withdrawing a claim that was in the original complaint and is not part of the amended complaint. Plaintiff is undoubtedly entitled to voluntarily withdraw any claim at this time, but in the motion Plaintiff requests "this court [to] accept my amended complaint and permit me to raise the dropped claim in a separate action within the statute of limitations." (Mot. to Amend 2.) Here, Plaintiff essentially requests to withdraw the claim and simultaneously seeks a stay with respect to the adjudication of the claim. Although this Court has "broad discretion to stay proceedings as an incident to its power to control its own docket," *Clinton v. Jones*, 520 U.S. 681, 707 (1997), Plaintiff has provided no good reason for a stay. The Court will not, in effect, toll the statute of limitations on the claim indefinitely simply because Plaintiff desires more time to prepare his case. Accordingly, to the extent Plaintiff seeks to have the Court grant tolling on his withdrawn claim, that request is denied.

In the interest of justice, the Court will provide Plaintiff the opportunity to inform the Court, within 14 days, whether he still intends to proceed with the amendment, with the knowledge that the statute of limitations will not be tolled on any withdrawn claims. If Plaintiff does not respond, the motion will be deemed as withdrawn.

IT IS therefore on this 5th day of July, 2018,

ORDERED that Plaintiff shall, within 14 days of this Order, inform the Court whether he intends to proceed with his motion to amend (ECF No. 41); and it is further

ORDERED that the Clerk shall serve this Order upon Plaintiff by regular mail.



MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE